IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

: O R D E R :

Sahab Ram Vs. Board of Revenue & Others.
(S.B. Civil Writ Petition No.1597/2004)

DATE OF ORDER : April 6th, 2007

P R E S E N T

Hon'ble Mr. Justice Gopal Krishan Vyas

Mr. (Dr.) S.S. Jodha for the petitioner.
Mr. G.R. Punia for respondents.

BY THE COURT :

In the present writ petition, the petitioner has challenged the order dated 16.09.2003 passed by the Board of Revenue whereby the learned Board of Revenue dismissed the revision petition filed by the petitioner.

Upon perusal of the impugned order dated 16.09.2003 it is revealed that three revision petitions were decided by this common order because the land in question is the same in the dispute arising in all the three revision petitions.

According to learned counsel for the petitioner, the

petitioner purchased 21 bigha agricultural land from one Khiny Ram in Chak 2 M.W.M., Muraba 90/13, kila 1 to 21. Khinya Ram had khatedari rights in the said land, therefore, through sale-deed dated 01.08.1994 the petitioner purchased the said land from Khinya Ram and, thereafter, in the revenue records mutation was recorded in the name of the petitioner.

It is submitted that 4 bigha land of the aforesaid Muraba 90/13 lay vacant as government land in the revenue records, therefore, the petitioner applied for allotment of the said 4 bigha land under Rule 14 of the Rajasthan Colonisation (Allotment and Sale of Government Land in the Indira Gandhi Canal Colony Area) Rules, 1975 (hereinafter, "the Rules of 1975"). The application of the petitioner was accepted and the allotting authority vide order dated 05.06.1997 allotted the said 4 bigha land as small patch of land to the petitioner. The petitioner was granted khatedari rights in respect of the aforesaid 4 bigha land also.

Respondent No.4 Safi Mohammed filed appeal before the appellate authority against the order of aforesaid allotment of 4 bigtha land in favour of the petitioner. That appeal came to be allowed on the ground that the said land had already been allotted to respondent No.4 Safi Mohammed prior to allotment of the land in favour of the petitioner. Therefore, possession of the

land was ordered to be given to respondent No.4. This order was passed by the Revenue Appellate Authority on 14.12.1998.

There is another aspect of the matter in that parallel proceedings with regard to the aforesaid 4 bigha small patch of land was in progress before the allotting authority before whom respondent No.4 had filed an application that the said land was allotted to him in the year 1982, therefore, subsequent allotment made in favour of Khinya Ram in the year 1987 may be cancelled. As a result of that proceedings, the allotting authority passed order dated 15.12.1987 in favour of Safi Mohammed. Against that order dated 15.12.1987, Khinya Ram filed appeal before the Revenue Appellate Authority and vide order dated 13.01.1997 the learned Addl. Commissioner-cum-Revenue Appellate Authority set aside the order dated 15.12.1987 passed by the Asstt. Colonisation Commissioner in favour of respondent No.4 Safi Mohammed. In these circumstances, the order passed by the appellate authority in appeal filed by respondent No.4 Safi Mohammed dated 14.12.1998 was challenged by way of filing revision petition by the petitioner Sahab Ram. Likewise, respondent No.4 Safi Mohammed has challenged order dated 13.01.1997 whereby the order dated 15.12.1987 passed by the Asstt. Colonisation Commissioner was set aside by the Revenue Appellate Authority.

The learned Board of Revenue while deciding all the three revision petitions including the revision petition filed by the petitioner Sahab Ram, by common order dated 16.09.2003, dismissed the revision petition filed by the present petition against order dated 14.12.1998 on the ground that according to record of the case initially the land was allotted to Safi Mohammed, respondent No.4. Learned counsel for the petitioner states that the petitioner purchased the land from Khinya Ram who had khatedari rights in the land, therefore, the order of the Board of Revenue deserves to be set aside.

Learned counsel for respondent No.4 contended that the learned Board of Revenue has rightly arrived at the findingt that initially the disputed land was allotted to respondent Safi Mohammed and he was in possession, therefore, there is no question of subsequent second all9otment of the said land to anybody else. It is contended that the finding of the Revenue Board is based on record of the case and it does not require any interference.

I have perused the entire record of the case and, so also, the order passed by the Board of Revenue.

Upon perusal of the record and the impugned judgment, it is clear that no dispute was raised by the petitioner or Khinya Ram at any stage that the said land was not allotted to Safi

Mohammed initially. The fact is established on record, therefore, the entire proceedings relating to the subsequent allotmen6t of the land already allotted cannot be sustained. In the facts and circumstances of the case, in my opinion, the learned Board of Revenue has rightly arrived at the finding that the allotment of the said land subsequently made in favour of the other persons viz., Khinya Ram and Sahab Ram was totally illegal. There is thus no force in the writ petition.

The writ petition is hereby dismissed.

(Gopal Krishan Vyas) J.